

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
WESTERN WIRELESS CORPORATION)
)
Petition for Designation as an Eligible)
Telecommunications Carrier in the State of)
Wyoming)
)

CC Docket No. 96-45

RECEIVED
DEC 17 1999
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

COMMENTS OF AT&T CORP.

Pursuant to the Commission's Public Notice, DA 99-2511 (released November 12, 1999), AT&T Corp. ("AT&T") submits these comments on the petition filed by Western Wireless Corp. ("Western Wireless") on September 29, 1999 for designation as an eligible telecommunications carrier ("ETC") in the State of Wyoming. The Commission should grant the Western Wireless Petition, which demonstrates that Western Wireless meets all of the criteria under Section 214(e)(1) for designation as an ETC. As Western Wireless also shows, the FCC has jurisdiction under Section 214(e)(6) to act in this case.

I. THE COMMISSION HAS JURISDICTION OVER THE WESTERN WIRELESS PETITION

On January 5, 1999, Western Wireless filed its Amended Petition for Designation as an Eligible Telecommunications Carrier with the Public Service Commission of Wyoming ("Wyoming PSC"), pursuant to Section 214(e)(2).^{1/} The Wyoming PSC dismissed the petition,

^{1/} Docket No. 70042-TA-98-1, Record No. 4432. Western Wireless filed its initial ETC application with the PSC on September 1, 1998.

No. of Copies rec'd _____
List ABCDE _____

0 Hep

however, finding that Western Wireless is not subject to jurisdiction under Wyoming state law.^{2/}

In particular, the Wyoming PSC noted that the Wyoming Telecommunications Act precludes the Wyoming PSC from regulating “telecommunications services using . . . cellular technology,” except for quality of cellular service.^{3/}

When a carrier is not subject to the jurisdiction of a state commission, the carrier may petition the Commission directly:

In the case of a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission, the Commission shall upon request designate such a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the Commission consistent with applicable Federal and State law.^{4/}

Because the Wyoming PSC does not have jurisdiction over Western Wireless, the Commission is required to rule on the petition.^{5/}

II. WESTERN WIRELESS MEETS THE CRITERIA FOR ETC DESIGNATION

Section 214(e)(6) provides that:

Upon request and consistent with the public interest, convenience and necessity, the Commission may, with respect to an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated under this paragraph, so long as each additional requesting carrier meets the requirements of paragraph (1). Before designating an additional eligible telecommunications carrier for an area served by a rural

^{2/} Docket No. 70042-TA-98-1, Record No. 4432, Order Granting Motion to Dismiss Amended Application (released August 13, 1999) (“Wyoming Order”).

^{3/} Wyoming Telecommunications Act, Section 37-15-104(a)(vi).

^{4/} 47 U.S.C. § 214(e)(6). The PSC’s order dismissing the Western Wireless Amended Petition anticipated the filing of a petition before the FCC pursuant to Section 214(e)(6). Wyoming Order at ¶ 16.

^{5/} Western Wireless meets the threshold requirements of jurisdiction pursuant to Section 214(e)(6) in that it is a common carrier that provides telephone exchange service and exchange access. Western Wireless Petition at 6.

telephone company, the Commission shall find that the designation is in the public interest.

Under Section 214(e)(1), a party seeking universal service funding must “offer the services that are supported by Federal universal service support mechanisms . . . , either using its own facilities or a combination of its own facilities and resale of another carrier’s services . . . and advertise the availability of such services and the charges therefor using media of general distribution.”^{6/} Western Wireless’ petition demonstrates that it offers voice-grade access to the public-switched network; single-party service or its functional equivalent; access to emergency services, operator services, interexchange services, and directory assistance; and all of the other services supported by universal support mechanisms.^{7/} In addition, Western Wireless notes that it will offer its universal services through its own facilities, and will advertise their availability and cost using “media of general distribution.”^{8/} Western Wireless thus meets all of the criteria set forth in Section 214(e)(1), and the Commission must designate it an ETC pursuant to Section 214(e)(6).

With respect to those areas that are served by rural telephone companies, the Commission should investigate whether grant of Western Wireless’s request for ETC status would serve the public interest. As the Commission has found generally, designating wireless carriers as ETCs in rural areas would help provide residents with the choices in innovative service offerings currently

^{6/} 47 C.F.R. § 214(e)(1).

^{7/} Western Wireless Petition at 7-10.

^{8/} Id. at 10-11. Western Wireless also states that it offers service options in which subscribers pay a flat fee and obtain a certain number of minutes of local usage at no additional charge. Id. at 8.

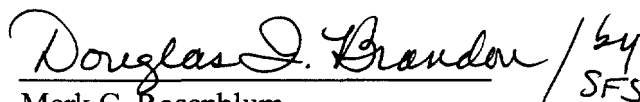
available in cities and suburbs.^{9/} Wireless technologies, including the wireless local loop service that Western Wireless plans to offer, are particularly well-suited to rural areas.

CONCLUSION

Because the Commission has jurisdiction over this matter pursuant to Section 214(e)(6), and Western Wireless's petition shows that it meets the requirements of Section 214(e)(1), AT&T urges the Commission to grant expeditiously Western Wireless' petition for designation as an ETC.

Respectfully submitted,

AT&T CORP.

 / *by*
SFS

Howard J. Symons
Sara F. Seidman
Christopher H. Kallaher
Mintz, Levin, Cohn, Ferris, Glovsky
and Popeo, P.C.
701 Pennsylvania Avenue, N.W.
Suite 900
Washington, D.C. 20004
(202) 434-7300

Of Counsel

Mark C. Rosenblum
Stephen C. Garavito
Room 1131M1
295 North Maple Avenue
Basking Ridge, NJ 07920
(908) 221-8100

Douglas I. Brandon
AT&T Wireless Services, Inc.
1150 Connecticut Avenue, N.W.
Suite 400
Washington, D.C. 20036
(202) 223-9222

Its Attorneys

December 17, 1999

LITDOCS:1164579.1(\y1f011.DOC)

^{9/} See Federal-State Joint Board on Universal Service, CC Docket No. 96-45, First Report and Order, 12 FCC Rcd 8776, 8781 ¶ 4 (1997).

CERTIFICATE OF SERVICE

I, LeShawn M. Riley, hereby certify that on this 17th day of December, 1999, I caused copies of the foregoing "Comments of AT&T Corp." to be delivered by hand (*) or first-class, postage prepaid, mail to the following:

*Magalie Roman Salas
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Room TW-A325
Washington, D.C. 20554


*Sheryl Todd
Accounting Policy Division
Common Carrier Bureau
Federal Communications Commission
445 Twelfth Street, S.W.
Room 5-B540
Washington, D.C. 20554

*Katherine Schroder
Accounting Policy Division
Common Carrier Bureau
Federal Communications Commission
445 Twelfth Street, S.W.
Room 5-C453
Washington, D.C. 20554

*Richard D. Smith
Accounting Policy Division
Common Carrier Bureau
Federal Communications Commission
445 Twelfth Street, S.W.
Room 5-B448
Washington, D.C. 20554

*International Transcription Service, Inc.
1231 20th Street, N.W.
Washington, D.C. 20036

David L. Sieradzki
Hogan & Hartson LLP
Columbia Square
555 13th Street, N.W.
Washington, D.C. 20004-1109


LeShawn M. Riley